

RESPONSE AND REMARKS

Applicant thanks the Examiner for the care and time taken in considering the above-referenced patent application and claims. Independent claims 1, 9 and 12 as originally filed have been amended to more accurately reflect a preferred embodiment of the present invention and emphasize those features of Applicant's invention which are believed to be novel over the cited art of record. Two independent claims were added per amendment to reflect the Examiner's statement concerning allowable subject matter. No new matter is added by the claim amendments since the present invention functioning as an ice strainer is provided throughout the specification, in addition to appearing elsewhere in the claims as originally filed.

The Examiner has rejected claims 1-6, 9, 11-13, 15, 17, 19, and 20 under 35 U.S.C. § 102(e) as being anticipated by Miranowski, (U.S. Pat. No. 6,618,978). Additionally, the Examiner has rejected claim 18 under 35 U.S.C. § 103(a) as being obvious in light of Miranowski, (U.S. Pat. No. 6,618,978). Applicant respectfully traverses these rejections.

In response, Applicant has amended independent claims 1, 9 and 12 whereupon the remaining claims noted above depend to better define the preferred embodiment of the present invention over the cited art of record. As noted in the Office Action, Miranowski describes an ice fishing slush remover comprising a cylinder (20) having a pair of semi-circular plates (40, 44) pivotally attached to a lower end thereof, a frame (32) attached to the upper end thereof, and a pair of rods (34, 38) each extending the length of the cylinder and having an end attached to the plates and an opposite end passing through and terminating above the frame to control movement of the plates.

Comparatively, Applicant's invention is described as an ice fishing strainer comprising in combination a body of cylindrical form having a bottom end for pivotally attaching thereto a strainer plate possessing the capacity to be angularly positioned therewithin by a support rod having an end portion pivotally attached to the strainer plate and an upper end having a lever integrally connected thereto for controlling the rotational

movement of the strainer plate and a top end for mounting a brace, principally serving as a handle and means for preventing lateral movement of the support rod during vertical movement thereof, specifically while controlling the angular positioning of the strainer plate to capture and release ice particles from the body of cylindrical form.

Given the similarity of the devices in Miranowski and the present invention, Applicant has appreciably amended the claims under consideration herein to better reflect the preferred embodiment of the present invention, notably in light of the Examiner's statement providing for allowable subject matter in claims 7, 8, 10, 14, and 16. In this regard, Applicant notes the following claim amendments in anticipation of avoiding Miranowski as an applicable art reference under 35 U.S.C. § 102(e) and § 103(a).

Claim 1 was rewritten in form to include the limitations of dependent claim 7 and intervening, dependent claims 5 and 6 as originally filed. Accordingly, Applicant respectfully requests reconsideration of claim 1 as amended.

Claims 2, 3 and 4 each comprise the same limitations as originally filed and continue to depend from independent claim 1 as amended. With the addition of further limitations in claim 1, as noted above, Applicant believes that claims 2, 3 and 4 now avoid Miranowski as an applicable art reference. Accordingly, Applicant respectfully requests reconsideration of claims 2, 3 and 4 as originally filed.

Claims 5 and 6 were amended in form to include alternative limitations than that originally filed and rewritten to depend from independent claim 1 as amended. With the addition of further limitations in claim 1, as noted above, Applicant believes that claims 5 and 6 now avoid Miranowski as an applicable art reference. Accordingly, Applicant respectfully requests reconsideration of claims 5 and 6 as amended.

Claim 7 was cancelled as a result of including its limitations in independent claim 1 as amended.

Claim 8 was cancelled as a result of including its limitations as well as with that of claims 1, 5 and 6, as originally filed, in independent claim 21 as newly presented herein.

Claim 9 was rewritten in form to include the limitations of dependent claim 10 as originally filed. Accordingly, Applicant respectfully requests reconsideration of claim 9

as amended.

Claim 10 was amended in form to include alternative limitations than that originally filed and continues to depend from independent claim 9 as amended. With the addition of further limitations in claim 9, as noted above, Applicant believes that claim 10 now avoids Miranowski as an applicable art reference. Accordingly, Applicant respectfully requests reconsideration of claim 10 as amended.

Claim 11 comprises the same limitations as originally filed and continues to depend from independent claim 9 as amended. With the addition of further limitations in claim 9, as noted above, Applicant believes that claim 11 now avoids Miranowski as an applicable art reference. Accordingly, Applicant respectfully requests reconsideration of claim 11 as originally filed.

Claim 12 was rewritten in form to include the limitations of dependent claim 14 as originally filed. Accordingly, Applicant respectfully requests reconsideration of claim 12 as amended.

Claim 13 comprises the same limitations as originally filed and continues to depend from independent claim 12 as amended. With the addition of further limitations in claim 12, as noted above, Applicant believes that claim 13 now avoids Miranowski as an applicable art reference. Accordingly, Applicant respectfully requests reconsideration of claim 13 as originally filed.

Claim 14 was cancelled as a result of including its limitations in independent claim 12 as amended.

Claim 15 comprises the same limitations as originally filed and continues to depend from independent claim 12 as amended. With the addition of further limitations in claim 12, as noted above, Applicant believes that claim 15 now avoids Miranowski as an applicable art reference. Accordingly, Applicant respectfully requests reconsideration of claim 15 as originally filed.

Claim 16 was cancelled as a result of including its limitations as well as with that of claim 12, as originally filed, in independent claim 22 as newly presented herein.

Claims 17, 18, 19, and 20 each comprise the same limitations as originally filed

and continue to depend from independent claim 12 as amended. With the addition of further limitations in claim 12, as noted above, Applicant believes that claims 17, 18, 19, and 20 now avoid Miranowski as an applicable art reference. Accordingly, Applicant respectfully requests reconsideration of claims 17, 18, 19, and 20 as originally filed.

Claims 21 and 22 each written in independent form have been added to reflect the allowable subject matter presented in dependent claims 8 and 16, each of which being cancelled as noted above.

CONCLUSION

In light of the above-noted amendments, Applicant believes now that the present invention no longer reads on the cited art reference of record, most particular Miranowski. Applicant has appreciably amended independent claims 1, 9 and 12 to better define the preferred embodiment of the present invention over the cited art reference of record and added two independent claims to further reflect the nature of allowable subject matter or limitations in claims 7, 8, 10, 14, and 16. Favorable reconsideration of this application, as amended, is respectfully requested.

Given the addition of independent claims, Applicant notes the submission herewith a Patent Application Fee Determination Record and applicable fee to permit entry and consideration of the same. Applicant makes further note of discovering an applicable art reference material to patentability and accordingly is submitting herewith by petition an Information Disclosure Statement for entry and consideration. This art reference in the form of a non-patent publication substantially comprises the subject matter of Miranowski, but will be submitted by Applicant for the record.

Applicant reminds the Examiner that if the foregoing amendment is inadequate in any respect insofar that it fails to place the application in a condition for allowance, specifically relating to those claims under consideration herein, Applicant respectfully requests the Examiner, prior to further consideration of the pending application, to

telephone Applicant's attorney of record to allow ample time to make further changes if deemed necessary.

Dated this 4th day of August 2004.

Respectfully submitted,



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- Enclosures:
- 1) Patent Application Fee Determination Record (Form PTO/SB/06)
 - 2) Fee Transmittal for FY 2004 (Form PTO/SB/17)
 - 3) Information Disclosure Statement by Applicant (Form PTO/SB/08B)
 - 4) Information Disclosure Statement and Petition
 - 5) Non-patent Publication (Outdoor News Publication, Slush Inhaler)
 - 6) Check in the Amount of \$266.00
 - 7) Return Receipt Postcard